

- CA<sup>1</sup>  
B<sub>1</sub>
- 234. (New) The insect cell of claim 233, wherein the insect cell is an Sf9 cell, an Sf21 cell or a Trichoplusia ni 5B1-4 cell.--
- 235. (New) A membrane preparation isolated from the cell of any one of claims 228, 229, 231, 232, 233 or 234.--
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**REMARKS**

Claims 1, 9, 11, 20, 21, 84-86, 91, 200, 201 and 212-214 were pending in the subject application. By this Amendment, applicants have canceled claims 1, 9, 11, 20, 21, 84-86, 91, 200, 201 and 212-214 without prejudice, and added new claims 218-235. Accordingly, upon entry of this Amendment, claims 218-235 will be pending and under examination.

Applicants maintain that the addition of new claims 218-235 raise no issue of new matter. Support for new claim 218 may be found inter alia in the specification, as originally-filed, at page 39, lines 5-9; page 40, lines 18-32; page 45, lines 15-17 and lines 19-21. Support for new claims 219-221 may be found inter alia in the specification, as originally-filed, at page 36, lines 29-33. Support for new claim 222 may be found inter alia in the specification, as originally-filed, at page 46, lines 29-31. Support for new claims 223-225 may be found inter alia in the specification, as originally-filed, at page 44, line 34 through page 45, line 6. Support for new claim 226 may be found inter alia in the specification, as originally-filed, at page 45, lines 15-17. Support for new claim 227 may be found inter alia in the specification, as originally-filed, at page 45, lines 19-21. Support for new claims 228-235 may be found inter alia in the specification, as originally-filed, at page 46, line 29, through

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page 47, line 11. Accordingly, applicants respectfully request that this Amendment be entered.

**Restriction Requirement Under 35 U.S.C. §121**

In the June 28, 2001 Office Action, the Examiner to whom the subject application is assigned required restriction under 35 U.S.C. §121 to one of the following inventions:

- I. Claims 1, 9, 20-21, drawn to an isolated nucleic acid encoding a mammalian NPFF receptor, classified in class 536, subclass 23.5;
- II. Claims 84-86 and 91, drawn to a process for identifying a chemical compound which binds to a mammalian NPFF receptor, classified in class 435, subclass 7.1;
- III. Claims 200-201, drawn to a method treating urinary incontinence, classified in class 514, subclass 2; and
- IIII. Claims 212-214, drawn to a method of treating a feeding disorder, classified in class 514, subclass 2.

The Examiner alleged that the inventions are distinct, each from the other because of the following reasons:

Inventions II-IIII are independent and distinct, each from the other, because the methods are practiced with materially different starting materials, have materially

different process steps, and are for materially different purposes.

Invention I is unrelated to inventions II, III, IIII. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP §806.04, MPEP §808.01). In the instant case the different inventions are not disclosed as capable of use together.

In response to this restriction requirement, applicants hereby elect, with traverse, to prosecute the invention of Examiner's Group I, i.e., claims 1, 9, 20-21, drawn to an isolated nucleic acid encoding a mammalian NPFF receptor, classified in class 536, subclass 23.5. Please note that the new claims 218-235 created by this Amendment correspond to an isolated nucleic acid encoding a mammalian NPFF receptor, and therefore should be grouped with Group I, i.e., claims 1, 9, 20-21.

Applicants note that 35 U.S.C. §121 states, in part, that "[i]f two or more independent and distinct inventions are claimed in one application, the Commissioner may require the application to be restricted to one of the inventions." [Emphasis added]. Applicants request that the restriction requirement be withdrawn in view of the fact that the claims of Groups I-III are not independent.

Under M.P.E.P. §802.01, "independent" means "there is no disclosed relationship between the subjects disclosed, that is,

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they are unconnected in design, operation, and effect...". The claims of Groups I-III are related in that they are drawn to an isolated nucleic acid molecule encoding a mammalian NPFF receptor and its uses.

Applicants therefore respectfully assert that two or more independent and distinct inventions have not been claimed in the subject application because the groups are not independent under M.P.E.P. §802.01. Therefore, restriction is improper under 35 U.S.C. §121.

Additionally, applicants point out that under M.P.E.P. §803, the Examiner must examine the application on the merits, even though it includes claims to distinct inventions, if the search and examination of an application can be made without serious burden. There are two criteria for a proper requirement for restriction, namely (1) the invention must be independent and distinct; AND (2) there must be a serious burden on the Examiner if restriction is not required.

Applicants maintain that there would not be a serious burden on the Examiner if restriction were not required. A search of prior art with regard to either Group I, II, III, or IIII would necessarily identify art for the other Groups. Since there is no serious burden on the Examiner to examine Groups I-III in the subject application, the Examiner must examine the entire application on the merits.

Accordingly, in view of the preceding remarks, applicants respectfully request that the Examiner reconsider and withdraw

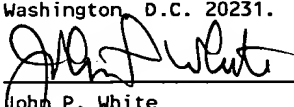
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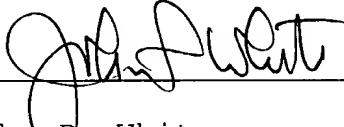
the requirement for restriction.

If a telephone conference would be of assistance in advancing the prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone the number provided below.

No fee, other than the enclosed \$ 54.00 fee, is deemed necessary in connection with the filing of this Amendment. However, if any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.	
	7/30/01
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